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7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **BETHANY GAYLE KELLY**  
8809 South Pointe Parkway E #1137  
Phoenix, Arizona 85044

14 Registered Nurse License No. 625820

15 Respondent.

Case No. 2009-204

**A C C U S A T I O N**

16  
17 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the  
20 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer  
21 Affairs.

22 **License History**

23 2. On or about September 11, 2003, the Board issued Registered Nurse  
24 License Number 625820 ("license") to Bethany Gayle Kelly ("Respondent"). The license will  
25 expire on August 31, 2009, unless renewed.

26 **JURISDICTION**

27 3. Section 2750 of the Business and Professions ("Code") provides, in  
28 pertinent part, that the Board may discipline any licensee, including a licensee holding a

1 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code  
2 section 2750) of the Nursing Practice Act.

3 4. Code section 2764, in pertinent part, that the expiration of a license shall  
4 not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
5 licensee or to render a decision imposing discipline on the license. Under Code section 2811,  
6 subdivision (b), the Board may renew an expired license at any time within eight years after the  
7 expiration.

8 5. Code section 118, subdivision (b), provides that the suspension,  
9 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to  
10 proceed with a disciplinary action during the period within which the license may be renewed,  
11 restored, reissued or reinstated.

#### 12 **STATUTORY PROVISIONS**

13 6. Code section 2761 states, in pertinent part:

14 The board may take disciplinary action against a certified or  
15 licensed nurse or deny an application for a certificate or license for any of  
the following:

16 (a) Unprofessional conduct, which includes, but is not limited  
17 to, the following:

18 (4) Denial of licensure, revocation, suspension, restriction, or  
19 any other disciplinary action against a health care professional license or  
20 certificate by another state or territory of the United States, by any other  
government agency, or by another California health care professional  
licensing board. A certified copy of the decision or judgment shall be  
conclusive evidence of that action.

#### 21 **COST RECOVERY**

22 7. Code section 125.3 provides, in pertinent part, that the Board may request  
23 the administrative law judge to direct a licensee found to have committed a violation or  
24 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
25 and enforcement of the case.

26 ///

27 ///

28 ///

1 CAUSE FOR DISCIPLINE

2 (Out-of-State Discipline)

3 8. Respondent is subject to disciplinary action under Code section 2761,  
4 subdivision (a)(4), on the grounds of unprofessional conduct, in that Respondent's Registered  
5 Nurse License was disciplined by the Arizona State Board of Nursing ("Arizona Board"). In the  
6 action entitled, *In the Matter of Professional Nurse License No. RN032382 Issued to:*  
7 *Bethany Gayle Kelly*, pursuant to a Consent For Entry of Voluntary Surrender Order  
8 No.0601011, effective September 17, 2007, Respondent voluntarily surrendered her Arizona  
9 Registered Nurse License No. RN032382 for a minimum of three years. The underlying  
10 circumstances of the discipline are as follows:

11 a. Between December 14, 2005, and December 18, 2005, while on duty as a  
12 registered nurse at Baptist Hospital in Phoenix, Arizona, Respondent signed out several doses of  
13 Morphine, a controlled substance, from hospital supplies for two patients. Respondent failed to  
14 account for several doses of the Morphine or account for the wastage of the Morphine in any  
15 hospital records.

16 b. On or about February 24, 2006, while on duty at Select Specialty Hospital  
17 in Scottsdale, Arizona, Respondent was observed by several staff members of behaving in a  
18 manner suggestive of impairment because she was acting euphoric and had slurred speech.  
19 Respondent submitted to a urine drug screen which tested positive for opiates, Morphine and  
20 Hydrocodone, controlled substances. Respondent provided a valid prescription for the  
21 Hydrocodone, but not for the Morphine.

22 c. Subsequently, Respondent twice failed to respond to respond to  
23 questionnaires sent to her by Arizona Board staff. On or about July 25, 2007, the Arizona Board  
24 voted to issue an order of Indefinite Suspension. On or about September 5, 2007, Respondent  
25 requested to voluntarily surrender her Arizona Nursing License.

26 A copy of the Arizona Board's Consent for Entry of Voluntary Surrender Order  
27 No. 0601011, Findings of Fact, Conclusions of Law, and Order is attached as **Exhibit A**, and is  
28 incorporated herein.

1 PRAYER

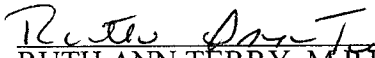
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 625820 issued  
5 to Bethany Gayle Kelly;

6 2. Ordering Bethany Gayle Kelly to pay the Board the reasonable costs of the  
7 investigation and enforcement of this case, pursuant to Code section 125.3; and,

8 3. Taking such other and further action as deemed necessary and proper.  
9

10 DATED: 3/23/09  
11

12   
13 RUTH ANN TERRY, M.P.H., R.N.  
14 Executive Officer  
15 Board of Registered Nursing  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant  
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22  
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24  
25  
26

Janet Napolitano  
Governor



Joey Ridenour  
Executive Director

*Arizona State Board of Nursing*

4747 North 7<sup>th</sup> Street, Suite 200  
Phoenix AZ 85014-3653  
Phone (602) 889-5150 Fax (602) 889-5155  
E-Mail: [arizona@azbn.org](mailto:arizona@azbn.org)  
Home Page: <http://www.azbn.org>

**AFFIDAVIT OF CUSTODIAN OF RECORDS**

STATE OF ARIZONA

COUNTY OF MARICOPA

I, Joey Ridenour, Executive Director for the Arizona State Board of Nursing, County of Maricopa, State of Arizona, do hereby certify that I am the officer having the legal custody for the records hereto attached in the office of the Arizona State Board of Nursing, County of Maricopa, State of Arizona, a public office of said State. The attached copies are true copies of the records on **BETHANY GAYLE KELLY**. Personnel of the Arizona State Board of Nursing prepared the records during the ordinary course of business.

Witness my hand and the seal of the Arizona State Board of Nursing at 4747 N. 7th Street, Suite 200, Phoenix, Arizona 85020 on June 12, 2008.

SEAL

*Joey Ridenour R.N. M.N. F.A.A.N.*

Joey Ridenour, R.N., M.N., F.A.A.N.  
Executive Director

ARIZONA STATE BOARD OF NURSING  
1651 East Morten Avenue, Suite 210  
Phoenix, Arizona 85020-4613  
602-889-5150

IN THE MATTER OF PROFESSIONAL NURSE  
NURSE LICENSE NO. RN032382  
ISSUED TO:  
**BETHANY GAYLE KELLY,**  
RESPONDENT.

CONSENT FOR ENTRY OF  
VOLUNTARY SURRENDER  
ORDER NO. 0601011

A complaint charging Bethany Gayle Kelly ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements, and the responsibilities of the Board, and pursuant to A.R.S. §32-1663 (D)(5), Respondent voluntarily surrenders her license for a minimum of three (3) years.

Based on the evidence before it, the Board makes the following Findings of Fact,  
Conclusions of Law:

**FINDINGS OF FACT**

1. Bethany Gayle Kelly ("Respondent"), holds Board issued professional nurse license No. RN032382 in the State of Arizona.
2. Respondent has been employed by IntelliStaf Registry in Phoenix, Arizona, as a registered nurse ("RN").
3. On or about December 2005, Respondent was assigned by Intelistaf to work at Baptist Hospital. A medical record audit was performed for December 14, 2005, through December 18, 2005.
  - a) Respondent signed out more narcotics than other staff for the same period.

- 1                   b) On or about December 14, 2005, Respondent removed seven doses of  
2                   Morphine 4 mg. for patient #39583.
- 3                   c) 12 mg. of the Morphine was unaccounted for and not documented as given or  
4                   wasted.
- 5                   d) On December 16, 17, and 18, 2005, Respondent removed Morphine for  
6                   patient #119247. Respondent failed to account for Morphine 20 mg. as  
7                   documented or wasted.
- 8
- 9                   4.       According to Respondent, from January of 2006 to February 24, 2006,  
10       Respondent was employed by Select Specialty Hospital in Scottsdale, Arizona as a staff and  
11       charge nurse.
- 12                   5.       On or about February 24, 2006, Respondent was observed by several  
13       staff behaving in a manner suggestive of impairment because she was acting euphoric and had  
14       slurred speech. She was asked to submit to a 'for cause' urine drug screen ("UDS"). The  
15       result of the UDS was positive for opiates morphine and hydrocodone. Respondent provided  
16       valid prescriptions for Dilaudid and Norco (hydrocodone). Respondent claims she is allergic  
17       to morphine.
- 18
- 19                   6.       On or about May 9, 2006, Respondent was mailed a questionnaire with a  
20       request to complete it and return it to Board staff. Two different addresses were attempted.  
21       Respondent failed to respond.
- 22                   7.       On or about July 10, 2006, Respondent was mailed a questionnaire with a  
23       request to complete it and return it to Board staff. Again, two different addresses were  
24       attempted and mail from one address was returned marked undeliverable. Respondent failed to  
25       respond.
- 26

1           8.     On July 25, 2007, the Board voted to issue an order of Indefinite  
2 Suspension pending completion of a minimum of 6 months therapy with a psychologist who has  
3 expertise in substance abuse and chronic pain issues, followed by 36 months probation with  
4 specified terms and conditions, effective September 10, 2007.

5           9.     On or about September 5, 2007, Respondent requested to voluntary  
6 surrender her professional nursing license due to medical reasons related to a recent change in  
7 diagnosis by her Neurologist of her seizure activity from grand mal to confusion status disorder.  
8

9                           CONCLUSIONS OF LAW

10           Pursuant to A.R.S. §§32-1606, 32-1663, and 32-1664, the Board has subject  
11 matter and personal jurisdiction in this matter.

12           The conduct and circumstances alleged in the Factual Allegations alleged  
13 constitute violations of A.R.S. § 32-1663(D), as defined in A.R.S. § 32-1601(16)(d) and (j);  
14 and A.A.C. R4-19-403(B)(7), (9), (17), (18), (25) and (31)(adopted November 13, 2005).  
15

16           The conduct and circumstances described in the Findings of Fact constitute  
17 sufficient cause pursuant to A.R.S. §§ 32-1663 (D)(5) and 32-1664(N) to take disciplinary  
18 action against Respondent's license to practice as a professional nurse in the State of Arizona.

19           Respondent admits the Board's Findings of Fact, Conclusions of Law.

20           Respondent understands that she has an opportunity to request a hearing and  
21 declines to do so. Respondent agrees to issuance of the attached Order and waives all rights to  
22 a hearing, rehearing, appeal, or judicial review relating to this Order.

23           Respondent understands that all investigative materials prepared or received by  
24 the Board concerning these violations and all notices and pleadings relating thereto may be  
25 retained in the Board's file concerning this matter.  
26



1 Respondent understands that the admissions in the Findings of Fact are  
2 conclusive evidence of a violation of the Nurse Practice Act and may be used for purposes of  
3 determining sanctions in any future disciplinary matter.

4 Respondent understands the right to consult legal counsel prior to entering into  
5 the Consent Agreement and such consultation has either been obtained or is waived.

6 Respondent understands that this voluntary surrender is effective upon its  
7 acceptance by the Executive Director or the Board and by Respondent as evidenced by the  
8 respective signatures thereto. The effective date of this Order is the date the Voluntary  
9 Surrender is signed by the Executive Director or the Board and by Respondent. If the  
10 Voluntary Surrender is signed on a different date, the later date is the effective date.

11 Respondent understands that Voluntary Surrender constitutes disciplinary action.  
12 Respondent also understands that she may not reapply for reinstatement during the period of  
13 Voluntary Surrender.  
14

15 Respondent agrees that she may apply for reinstatement after the period of  
16 voluntary surrender under the following conditions, and must comply with current law at the  
17 time of their application for reinstatement:  
18

19 ////

20 ////

21 ////

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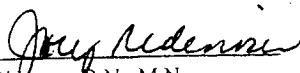
1 The application for reinstatement must be in writing and shall contain therein or  
2 have attached thereto substantial evidence that the basis for the voluntary surrender has been  
3 removed and that the reinstatement of the license does not constitute a threat to the public's  
4 health, safety and welfare. The Board may require physical, psychological, or psychiatric  
5 evaluations, reports and affidavits regarding the Respondent as it deems necessary. These  
6 conditions shall be met before the application for reinstatement is considered.

7  
8   
9 Bethany Gayle Kelly, Respondent

10 Date: Sept 13, 2007

11 ARIZONA STATE BOARD OF NURSING

12  
13 SEAL

14   
15 Joey Ridenour, R.N., M.N.

16 Executive Director

17 Dated: 9/17/07

18 BARBER/Kelly, Bethany Gayle, RN032382

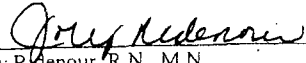
19  
20 **ORDER**

21 Pursuant to A.R.S. §32-1663(D)(5) the Board hereby accepts the Voluntary  
22 Surrender of professional nurse license number RN032382, issued to Bethany Gayle Kelly.  
23 This Order of Voluntary Surrender hereby entered shall be filed with the Board and shall be  
24 made public upon the effective date of this Consent Agreement. Respondent shall not practice  
25 in Arizona under the privilege of a multistate license.  
26

1 IT IS FURTHER ORDERED that Respondent may apply for reinstatement of  
2 said license after a period of three (3) years.

3  
4 SEAL

ARIZONA STATE BOARD OF NURSING

5  
6   
7 Joey Ridenour, R.N., M.N.  
8 Executive Director

9 Dated: 9/17/07

10 JR/SB:nz

11  
12 ORIGINAL mailed on this 12<sup>th</sup> day of September, 2007 to:

13 Bethany Gayle Kelly  
14 8809 S Pointe Pky East #1137  
15 Phoenix AZ 85044

16 By: Susan Barber, MSN, RN  
17 Nurse Consultant, Hearing Dept.